IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Crl.MC.No. 2778 of 2005()

LP.13/1987 of CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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PETITIONER:

P.V.UNNIKRISHNAN, AGED 43 YEARS,
S/O.P.P.VASUDEVAN, RESIDING AT ARA-67,
T.C.IV/1550, KATTU ROAD, DEVASWOM BOARD JUNCTION,
KAWADIAR, IN KAWADIAR VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

RESPONDENTS:

STATE OF KERALA, REPRESENTED
BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERENAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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Crl. M.C. No.2778 of 2005

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Dated this the 8th day of October, 2007.

ORDER

The petitioner is the 6th accused in C.C. No.263/1986 which is now pending as L.P. No.13/1987 on the file of the Chief Judicial Magistrate's Court, Thiruvananthapuram, in relation to an occurrence that has taken place on 11.6.1986. Annexure-A final report has been filed by the Police on 3.11.1986 and that has been taken cognizance of by the Magistrate under Sections 143, 147, 149 and 341 of I.P.C. and under Clause 5 of the Kerala Essential Service Maintenance Ordinance and registered as C.C. No.263/1986. The case was registered at a time when the petitioner was a Post-graduate student in Engineering College, Thiruvananthapuram and was student member of the Kerala University Senate from the Post-graduate constituency. According to the petitioner, he joined the Engineering College, Thiruvananthapuram as Lecturer in Electronics and Telecommunication in June 1987 after completing the M.Tech course with distinction in Microwave and Television Engineering and was rank holder for the course in the University; that he joined the Kerala State Film Development Corporation as a Chief Electronics Engineer from June 1988,

that he was put in additional charge as the Project Officer in June 1990 and was appointed as Registrar of C-DiT by the Government of Kerala and was put in charge of building up the pioneering research, training, software development and technical support institution and in 1999 the Government appointed him as an Executive Mission Director of the Information Kerala Mission, one of the largest e-governance projects taken up in the country so far. According to him, he was very much available at Trivandrum from 1986 till 2005 except for the period from 1991 to 1995 when he was on study leave to Integrated Rural Technology Centre and is also permanently residing with his family in Trivandrum from 1987 onwards and has not moved out of the State except for official tours for short periods. He alleges that he came to understand only now that he is arrayed as the 6th accused along with 24 others in L.P. 13/87 on the file of the Chief Judicial Magistrate's Court, Trivandrum for offences as already stated, on the allegation that he along with 24 others had on 11.6.1986 with a view of encourage the employees who were engaged in strike in the Kerala University formed themselves into an unlawful assembly, wrongfully restrained the Vice Chancellor of the Kerala University on the portico of the said University when the latter alighted there from his car to attend his duties and the members of the unlawful assembly encircled the car of the

University Vice Chancellor and raised slogans against the formation of the Pre-Degree Board and thereafter committed the offences alleged against them. It was specifically put to the Public Prosecutor as to whether the respondent denies the allegations of the petitioner as regards the services rendered by him at Trivandrum in various posts under the Government of Kerala and the Prosecutor is unable to deny the specific allegations in unequivocal terms made by the petitioner. This means that the case against the petitioner was lying over for the last 21 years as a Damocles's sword so as to fasten it's clutches on any one of the 25 accused at any time when the Police so desired. It is not known what the Police was doing for the last 21 years, if they could not trace the whereabouts of the petitioner who at the relevant time was a Post-graduate student in Engineering and has immediately after his studies served as Lecturer in Engineering College, Trivandrum. It is too much to say that the petitioner has to face a trial for the offences alleged after such a length of time, despite the fact that after all the allegations even if true are that he along with 24 others encircled the Vice Chancellor of the Kerala University and raised the slogans against the formation of the Pre-degree Board. It is nothing but an abuse of the process of court, if the trial of the case is allowed to be proceeded against the petitioner after such a length of time in such a petty offence. Hence

invoking the jurisdiction of this court under Section 482 of the Code of Criminal Procedure as also under Article 226 of the Constitution of India, I quash the proceedings as against the petitioner in L.P. 13/1987 pending on the file of the Chief Judicial Magistrate's Court, Thiruvananthapuram. This Criminal M.C. thus stands allowed.

K.P.BALACHANDRAN
Judge

pms